

REMARKS

A. Request for Reconsideration

Applicants have carefully considered the matters raised by the Examiner in the outstanding Office Action but remains of the position that patentable subject matter is present. Applicants respectfully request reconsideration of the Examiner's position based on the amendments to the claims and the following remarks.

B. Claim Status and Amendments

Claims 1-12 and 14 are presented for further prosecution. Claim 13 has been cancelled and claim 14 has been added.

All the claims have been amended herein to place them into conventional US format.

Claim 1 has been further restricted by using the transitional phrase of "consisting essentially of" and it has been further amended to define the slurry as "stable, storables", specify that the polysaccharide is a preconditioned polysaccharide and to define "precondition". Support for these amendments can be seen in the 4th

paragraph on page 3, 1st paragraph on page 4 and the examples on pages 4 and 5. As taught on page 3, preconditioning means that the polysaccharide has been in water medium for at least 15 minutes before it is added to the slurry. Claims 7 and 8 have been amended to define the preconditioning.

Claims 2 and 12 have been amended to delete "cellulose derivative" and to put the claims into a conventional Markush claim format.

No new matter was added.

C. The Office Action

In the Office Action the Examiner:

- 1) rejected Claims 2, 7-9, 12 and 13 on formal grounds as indefinite;
- 2) rejected Claims 1-4 and 13 as being anticipated by Vassoy (EP 0467921);
- 3) rejected Claim 5 as being unpatentable over Vassoy in view of Prat, et al (US 2002/0059885);
- 4) stated claim 6, 10 and 11 were allowable; and

5) stated claim 7-9 and 12 would be allowable if amended to over come the indefinite rejections.

Applicants will first address the indefinite rejections and then address the prior art.

D. Claim rejections under 35 USC 112

1. Regarding rejections on the term "cellulose derivative", claims 2 and 12 have been amended to delete "cellulose derivative" and to put the claims into a conventional Markush claim format.

2. Regarding the rejections on the term "preconditioned", Claim 7 has been amended to define the term "preconditioned" as the polysaccharide in a water-containing medium for at least 15 minutes before it is added to the slurry. Such is recited page 3 at lines 15-20. Claim 8 has been amended to define the water medium used for the preconditioning as a slurry of water and amorphous silica.

3. Regarding the rejection on the term "high shear", it is submitted that such a term is conventional and those

of skill in the art fully understand the term. To support this position, attached is an abstract of a journal article "Discrete element simulations of a high shear mixer" for the technical use of the term "high shear". Also, two web pages are included for the commercial products of high shear mixers. It is respectfully submitted that "high shear" is definite since it is understood by those skilled in the field.

E. Claim rejections based on prior art

1. The Examiner rejected Claims 1-4 and 13 based on Vassoy, and claim 5 based on a combination of Vassoy and Pret. However, Vassoy does not teach a product with preconditioned polysaccharide.

Claim 13 has been cancelled and claim 1 has been amended herein to recite that the slurry is a storable stable slurry made with preconditioned polysaccharide.

One of the novel aspects of the present invention is that a stable and storable slurry is made with water, amorphous silica particles, silica flour and a preconditioned polysaccharide. It has been discovered that the addition of a preconditioned polysaccharide to the slurry of amorphous silica and silica flour results in a stable slurry with a reduced tendency of settling and an increased shelf life of the slurries.

The examples in the application show the improved stability of the slurry. In Example 1, xanthan had been preconditioned in a small part of the slurry of water and amorphous silica for 24 hours before it was added. The samples in the glass cylinders has only a 2 mm top layer of water after 34 days, and no resistance was found when lowering a rod to the bottom of the cylinder. The samples were very fluid and when the cylinders were emptied, there was no sediment in the bottom of the cylinders.

Thus, it can be seen that using preconditioned polysaccharide resulting in a dramatic improvement in the stability of the slurry. The difference of 2mm of water at the top after 34 days of storage verses 25mm of water 7 days of storage illustrates a difference of 60 fold improvement of stability.

Vassoy makes no mention of a preconditioned polysaccharide. As shown in the examples of the present invention, a preconditioned polysaccharide is important for the substantially increased stability of the slurry. Respectfully, such a dramatic improvement can not be predicted from Vassoy.

Moreover, Vassoy does not teach a slurry consisting essentially of water, amorphous silica particles, silica flour and preconditioned polysaccharide.

Example 1 of Vassoy teaches the product of a slurry of amorphous silica and silica flour. Cellulose derivates may be added as retarders and filter loss reducing agents in an

amount of up to 10% by weight. In addition the slurry may contain a number of other ingredients like accelerators, weigh-reducing agents and anti-foam agents. It would be clear to a person skilled in the art that slurry containing all the ingredients listed in Example 1 of Vassoy will not be storable and stable. For instance, the addition of accelerators would make the slurry to gel in a relatively short time. In this respect it should be used in cement slurries more or less immediately after production.

It is respectfully submitted Vassoy does not teach or suggest a slurry with a preconditioned polysaccharide and therefore it is submitted that the claims are patentable over Vassoy.

2. Turning to the secondary reference Prat, Prat does not teach a product with preconditioned polysaccharide. Therefore, the combination of Vassoy and Prat won't render Claim 1 or its dependent claim, Claim 5 unpatentable.

It is respectfully submitted that the present invention is patentable over the cited references, alone or in combination.

F. Conclusion

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance and such action is respectfully requested. Should any extensions of time or fees be necessary in order to maintain this

Application in pending condition, appropriate requests are hereby made and authorization is given to debit account #02-2275.

Respectfully submitted,

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